G. R. S. 58]

Previous references.
G. F. 107 1898

1900.
~~191~~ .
(G. F.)

File No. 106 00
Serial Nos. 1–4

Later references.

p. 29
B

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 164.

Pt. **Part B for** March 1981.

SUBJECT.

Attachment of Insurance Bonus by Civil Courts & decree holders

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Confirmation Card

Issued

W D 1351—GPB—20,000—13-12-15

ROUTINE NOTES.

[To be used only for notes, requisitions, etc.]

Genl re 6177/7L1060 & 16. 3 01

Letter re 153 dated the 13th March 1901 from Munsiff of Shimoga.

The Munsiff of Shimoga agreeably to the provisions of the section 273 of the Code of Civil Procedure, attached at the instance of one of the deceased Krishna Rao's judgment creditors the Insurance bonus payable to the latter's widow under Insurance Policies re 1325 and 2301 held by him. The Munsiff accordingly requested the Insurance Secy to remit the attached amount to his Court for payment to the said judgment creditors.

The question having been brought before the Insurance Commee held on 23rd Oct last the latter resolved (x) in accordance with the Rule 23 of the "Insurance Rules" that the bonus amount be paid only on production by the widow of the deceased Policy holder of heirship Certificate and on surrendering the said Policies. This Resolution was communicated to the Munsiff of Shimoga.

The present letter of the Munsiff is on the same subject. He States that:-

(1) under the present Resolution of the Insce Commee the widow might not choose to produce the heirship Certificate and surrender the Policies in which case the judgment-creditors might

+ Extract put up.

(x) Vide 8L re 7a in the file put up copy put up.

N.B.—Should notes, etc., be written on small slips the notes must be copied, or the slips passed on this form.

ROUTINE NOTES.

2

[To be used only for notes, requisitions, etc.]

Rule 23 makes payment to

The Govt Advocate in reply to this office nº 8216 of 12/- instant writes to say that in the case under consideration, no heirship certificate need be produced and that if Policies of Insurance be produced before the Court the Bonus money may be paid into the Court by the Insce Commee in which case the Court would order the Policies to be sent to the Insurance Committee. The Govt Advocate encloses also a copy of the Chief Court decision on Mus: Appeal nº 25 of 1899-1900 which supports his views.

29/4/07

Draft a reply to the Asst saying that under this rule, the amt becomes payable only on the production & delivery of the policies. Though accg to the case quoted by the G.A. the heirship certificate is unnecessary, the delivery of the policy is a necessary condition. The Insd's heirs might however be able to attach & be possd of the Policies & then proceed to recover the money due on them.

29/4

Drafted nº 2 29/4/07

N.B.—Should notes, etc., be written on small slips the notes must be copied, or the slips passed on this form.

might be shut out of payment and

(2) as the Resolution referred to has not fixed any time within which the heirship Certificate should be produced by the widow the decree-holders' right may be indefinitely postponed. He requests that under these circumstances Govt may be moved to direct the Insce Secy: to remit the attached amount to this Court before the 12th April next, which procedure would discharge the Insce Secy from all liabilities under Section 268 of the Civil Proc: Code.

Submitted for orders with file and copy of the "Insce Rules"

N.S.
20/3/01

Mb Mulled
Secretary Foreign

N
20/3/01

Rec'd 29/3/01

Subd to the Revue

The Insurance Committee do not object to pay the amount into Court but they say that the amount becomes payable only after the production of a certificate of heirship and the surrender of the policy by the legal heir of the deceased. There is no means of compelling the heir to do this and it is not possible to pay the amount into Court before the 12th April as desired by the Magistrate

29/3/01

MGCPB—14-2-1901-1000

Should not the Court be advised what is the policy held by or in the possession of the widow & after attachment of the Court come with the copy of the policy & suspend it up to Insurance Secy with its certificate that the amount is payable only — & if it allows the policy to be sold the purchaser will take the money subject to recover the money — When no money is payable till the surrender of the Policy how can the Court claim it.

N-B.—Should notes, etc., be written on small slips the notes must be copied, or the slips passed on this form.

Please draft an order accordingly

Ask the Govt Advocate's opinion also on the news

GOVERNMENT OF MYSORE

Extract from the Code of Civil Procedure

Section 272. Attachment of property deposited in Court or with Govt: Officer.

If the property deposited in, or lie in the custody of, any Court or public Officer the attachment shall lie: made by a notice to such Court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Court from which the notice issues:

Proviso

Provided that, if such property is deposited in, or is in the custody of, a Court, any question of title or priority arising between the decree-holder and any other person not being the judgment debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise shall be determined by such Court.

Section 268. Attachment of debt, share and other property not in possession of judgment debtor.

In the case of (a) a debt not secured by a negotiable instrument, (b) a share in the capital of any public Company or

or Corporation; (c) other moveable property not in the possession of the judgment-debtor, except property deposited in or in the custody of any Court the attachment shall be made by a written order prohibiting,

(a) in the case of debt, the creditor from recovering the debt, and the debtor from making payment thereof until the further order of the Court;

(b) in the case of the share, the person in whose name the share may be standing, from transferring the same or receiving any dividend thereon;

(c) in the case of the other moveable property except as aforesaid, the person in possession of the same from giving it over to the judgment-debtor.

A copy of such order shall be fixed up in some conspicuous part of the Court-house, and another copy of the same shall be sent, in the case of the debt to the debtor in the case of the share to the proper officer of the Company or Corporation, and in the case of the other moveable property (except as aforesaid) to the person in possession of the same.

A debtor prohibited under clause (a) of this section may pay the amount of his

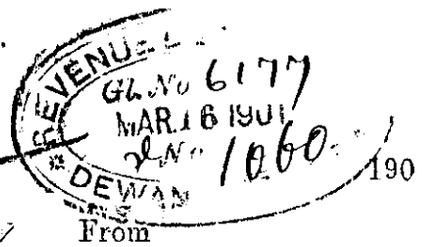
his debt into Court, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

In the case of salary of a public Officer or the Servant of a Railway Company, the attachment shall be made by a written order requiring the Officer whose duty it is to disburse the salary to withhold every month such portion as the Court may direct, until the further orders of the Court.

A copy of every such order shall be fixed up in a conspicuous part of the court-house and shall be served on the Officer if so required.

Every such Officer may from time to time pay into Court any portion so withheld, and such payment shall discharge the Govt or Railway Company, as the case may be, as effectually as payment made to the judgment-debtor.

7



190

From

The Sheriff of
Shimoga

Section G. 7 To

File No 16 00 THE SECY. TO THE GOVT. OF MYSORE,
GEN & REV. DEPTS.

Serial No 1

Dated 13/3/01

Despatched

Received

General No. 153

No.

Enclosure No. 3

Requesting to move the Govt to direct the Secretary to the Life Insurance Committee to remit the attached amount to his Court before the 12/4/01 & under certain circumstances stated in the letter

References to be marked.

Rd 19/3/1901

1060

R 16.3.00

No 153

Encl 3

From The Munsiff of Shimoga

Dated 13th March 1900

To The Secretary to the Government of Mysore Revenue and General Departments -

Sir

I have the honour to inform you that the amount due to the widow of one Krishna Rao, on Government Life Insurance Policies Nos 1325 and 2301, was attached at the instance of the decree-holders in this case No 150 of 1900-1901 and Execution case No 390 of 1900-01 on the file of this Court. On being requested to send the amount attached

the

the Secretary to the Life Insurance Committee has replied that he is unable to do so, as the Committee have resolved that payment be made after the widow produces an heirship certificate and surrenders the policies. That the amount is due on the policies does not seem to be in any way disputed. The attachment was effected in November 1900. The Secretary has not fixed any time within which the money might be expected to be received. The payment of money to the decree-holders may be postponed indefinitely, if it be made contingent upon the production of an heirship certificate and the surrender of the policies by

by the widow of the deceased, and she does not choose to do so. It seems to me that these formalities may be dispensed with as their non-observance cannot have the effect of vitiating the policies. The attachment having been made under Section 272 Civil Procedure Code, the Secretary holds the amount subject to the orders of the court attaching it. Under Section 268 Civil Procedure Code, the payment of an attached debt into court, discharges the debtor as effectually as payment to the party entitled to receive the same. Under these circumstances, I request that you may be pleased to move the Government to direct the Secretary to the Life Insurance

Insurance Committee
to remit the attached
account to this Court
before the 12th April 1901.
The execution cases relating
to this stand adjourned
to that date. The dockets
received from the Secretary
to the Life Insurance
Committee are herewith
sent for reference.

I have the honour to be,
Sir,
Your most obedient Servant.

K. Anjaneya Rao
Munsiff

12

GOVERNMENT OF MYSORE

To

The Govt: Advocate
Bangalore.

Section 8th C
File No 8 of 07 Dated 12.4.07
Serial No 2 No 8216-H 805

Encl 4

In forwarding herewith Letter no 153 dated the 13th March 1907, with its Enclosure (to be returned), from the Munsiff of Shimoga, requesting to move Govt to direct the Secretary Insce Commissioners to remit to his Court certain bonus amount attached by the order of his Court, has the honor to request his opinion as to whether in the case referred to by the Munsiff the Decreeholders should not be advised to attach the Insurance Policies which were held by the deceased Krishna Rao and which may now be in the possession of his widow. It is observed the

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if after attachment the Court obtain possession of the Policies, it may send them up to the Insurance Secretary with its Certificate that the amount is payable to itself or it may allow the Policies to be sold in which case the purchaser will take necessary action to recover the money.

It is requested that he will furnish this office with his opinion on the above views at a very Early date.

Dewar's order) By order

Draft
W.S.
11/4/01

Secretary

Copied
12/4/01.

14

JED. DEPARTMENT
No. 7241
APR 25 1907
SECRETARIAT
BANGALORE

From The Government Advocate in Mysore

To

THE SECY. TO THE GOVT. OF MYSORE,
GEN. & REV. DEPTS.

Section G. 7. Dated 22/4/07
File No 10 Despatched
Serial No 3 Received
General No. 201
No.

Enclosure No. 5

Furnishing his opinion in regard to attachment of a civil court decree the amount of bonus payable to the heirs of one deceased Krishna Rao (Policies Nos. 1325 & 1301)

References to be marked.

Refs/Instrs
27/4/07

Recd 27/4/07 rd

submitted for orders with note duly continued

rd 29/4/07

15

OFFICE OF THE
GOVERNMENT ADVOCATE IN MYSORE.

DATED 22nd April 1901
Recd 23rd do.

No. 267
En. No. 5

From

THE GOVERNMENT ADVOCATE
IN MYSORE.

To

THE SECRETARY TO THE GOVERNMENT OF MYSORE,
GENERAL AND REVENUE DEPARTMENTS.

SIR,

In reply to your letter No 8216 H. 805 dated the 12th instant, I have the honor to state that the opinion expressed by the Secretary to the Insurance Committee regarding the delivery of Policies of insurance to the Committee is correct & is supported by the decision of the Chief Court in Miscellaneous Appeal No. 25 of 1899-1900 on the file of the Chief Court, copy of which is herewith sent for the information of the Municipality. The production of Certificate

of

of hearing is not necessary. If the Policies of insurance be produced to the Court, money may be paid to the Court which will order the Policies to be dealt to the Committee

The enclosures of the letter
under reply are herewith sent.

I have the honour to be

Sir
Your most obedient servant.

S Ramaswamy
Government Advocate

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In the Chief Court of Mysore

Wednesday the 21st day of March 1900

Present:

Mr Justice J. W. Reid. Chief Judge

and

Mr Justice T. Narahari Rao, Judge.

Mis: Appeal No 25 of 1899-1900

Mr L. Freemasen Iyengar. Appellant.
(by Mr K. T. Narasimha Iyengar) (Decree holder)

1. Subbulakshamma alias Lakshamma, minor, by Narayen Jois
2. Narayana, minor by Venkata Subba Jois

} Respondents (Judgt debtors.)

Mis: appeal against the order of the Sub Judge of Bangalore in S.C. 280 of 98/99 & S.C. 376 of 99/00

This Mis: appeal coming on for hearing this day, the Court pronounced the following

Order.

It is conceded by Mr Ramaswamy Iyer on behalf of the Respondents (minors)

that

tent No 23 of the Rules requires the production of a Certificate of heirship. That no doubt is the Case in the absence of a decree. But where there is a decree against the legal representative of the Policy holder the rule is not applicable; for the money is no longer payable to the heir, but to the decree-holder. The money having been attached in execution of the decree, can be safely paid into Court by the Committee, as Section 268 of the Code of Civil Procedure declares that such payment will be an effectual discharge of all liability for the debt.

The Policies of Insurance are in the Court and can be delivered to the Committee on the money being paid into this Court.

Sd/ J. W. Best.
Chief Judge

Sd/ T. Narahari Rao
Judge

Copy
S Ramarao
Government Advocate

19

Section G 7
File No 6 of 1901
Serial No 4
Dated 2.5.01

The Munsiff of Shimoga.

No. 8794-7C890
Rec 4

His No 153 dated the 13th March 1901

With reference to the above, has the honour to forward herewith a copy of Chief Court decision in Civil Appeal No 25 of 1899-1900 received in this office with the Govt Advocate's letter No 201 dated the 22nd April 1901, and to state that under Rule 23 of the "Mysore State Life Insurance Rules" the amount becomes payable only on the production of the policies. Though according to the case quoted by the Govt Advocate the heirship certificate may be dispensed with, the delivery of the policies is a necessary condition. The right course would probably be to attach

Copies 1/5/01

20

attach and take possession of the policies and then ~~to~~ proceed to recover the money due on them.

The Enclosures to his letter under reference are herewith returned.

By Order

Secretary 29/4

draft
N.S.
29.4.07.

J.57
3.15